

**Assembly Bill No. 569**

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Passed the Assembly     July 10, 2003

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*Chief Clerk of the Assembly*

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Passed the Senate     July 7, 2003

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day of  
\_\_\_\_\_, 2003, at \_\_\_\_\_ o'clock \_\_M.

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*Private Secretary of the Governor*

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## CHAPTER \_\_\_\_\_

An act to amend Section 156.1 of the Business and Professions Code, to amend Sections 8448, 22217, 22362, 41320, and 62004 of the Education Code, to amend Sections 7604, 8543.1, 8544.2, 8544.3, 8544.5, 8544.6, 8545, 8545.1, 8545.2, 8545.4, 8545.5, 8546.1, 8546.3, 8546.4, 8546.8, 12430, 13297, 13298, 13299, 13299.1, 13405, 16366.7, 53134, and 53138 of, to amend the heading of Article 3 (commencing with Section 8547) of Chapter 6.5 of Division 1 of Title 2 of, to amend and renumber Section 8546.5 of, the Government Code, to amend Section 18052.5 of the Health and Safety Code, to amend Section 10359 of the Public Contract Code, to amend Section 2154 of the Streets and Highways Code, and to amend Section 14100.2 of the Welfare and Institutions Code, relating to the Bureau of State Audits.

## LEGISLATIVE COUNSEL'S DIGEST

AB 569, Cohn. Bureau of State Audits.

Existing law establishes the Bureau of State Audits under the direction of the Milton Marks Commission on California State Government Organization and Economy, and generally provides that any reference in state law to the Auditor General or the office of the Auditor General with respect to the performance of audits, shall be construed to refer to the State Auditor or the Bureau of State Audits, respectively.

This bill would delete obsolete references to the office of the Auditor General and the Auditor General and make various other technical, nonsubstantive changes.

This bill would incorporate additional changes to Section 8544.2 of the Government Code proposed by SB 626, to be operative only if this bill and SB 626 are both enacted and become effective on or before January 1, 2004, and this bill is enacted last.

This bill would incorporate additional changes to Section 13405 of the Government Code proposed by SB 403, to be operative only if this bill and SB 403 are both enacted and become effective on or before January 1, 2004, and this bill is enacted last.



*The people of the State of California do enact as follows:*

SECTION 1. Section 156.1 of the Business and Professions Code is amended to read:

156.1. (a) Notwithstanding any other provision of law, individuals or entities contracting with the department or any board within the department for the provision of services relating to the treatment and rehabilitation of licentiates impaired by alcohol or dangerous drugs, shall retain all records and documents pertaining to those services until such time as these records and documents have been reviewed for audit by the department. These records and documents shall be retained for a maximum of three years from the date of the last treatment or service rendered to that licentiate, or until such time as the records pertaining to treatment or services rendered to that licentiate are audited, whichever occurs first, after which time the records and documents may be purged and destroyed by the contract vendor. This provision shall supersede any other provision of law relating to the purging or destruction of records pertaining to those treatment and rehabilitation programs.

(b) Notwithstanding any other provision of law, all records and documents pertaining to services for the treatment and rehabilitation of licentiates impaired by alcohol or dangerous drugs provided by any contract vendor to the department or to any board within the department shall be kept confidential and are not subject to discovery or subpoena.

(c) With respect to all other contracts for services with the department or any board within the department other than those set forth in subdivision (a), the director or chief deputy director may request an examination and audit by the department's internal auditor of all performance under the contract. For this purpose, all documents and records of the contract vendor in connection with such performance shall be retained by such vendor for a period of three years after final payment under the contract. Nothing in this section shall affect the authority of the State Auditor to conduct any examination or audit under the terms of Section 8546.7 of the Government Code.

SEC. 2. Section 8448 of the Education Code is amended to read:

8448. As used in this article:



(a) “Financial and compliance audit” means a systematic review or appraisal to determine each of the following:

(1) Whether the financial statements of an audited organization fairly present the financial position and the results of financial operations in accordance with generally accepted accounting principles.

(2) Whether the organization has complied with laws and regulations that may have a material effect upon the financial statements.

(b) “Public accountants” means certified public accountants, or state licensed public accountants.

(c) “Independent auditors” means public accountants who have no direct or indirect relationship with the functions or activities being audited or with the business conducted by any of the officials or contractors being audited.

(d) “Generally accepted auditing standards” means the auditing standards set forth in the financial and compliance element of the “Government Auditing Standards” issued by the Comptroller General of the United States and incorporating the audit standards of the American Institute of Certified Public Accountants.

(e) “Direct service contract” means any contract with any public or private entity for child care and development programs, resource and referral programs, and programs contracting to provide support services as defined in Section 8208.

(f) “Nonprofit organization” means an organization described in Section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from taxation under Section 501(a) of that code, or any nonprofit, scientific, or educational organization qualified under Section 23701d of the Revenue and Taxation Code.

(g) Annually, there shall be a single independent financial and compliance audit of organizations that contract with the state under a direct service contract. Any such audit shall include an evaluation of the accounting and control systems of the direct service contractor and of the activities by the contractor to comply with the financial requirements of direct service contracts received by the contractor from the state agency. The financial and compliance requirements to be reviewed during the audit shall be those developed and published by the State Department of Education in consultation with the Department of Finance. Audits



carried out pursuant to this section shall be audits of the contractor rather than audits of individual contracts or programs. In the case of any contractor that receives less than twenty-five thousand dollars (\$25,000) per year from any state agency, the audit required by this section shall be conducted biennially, unless there is evidence of fraud or other violation of state law in connection with the direct service contract. The cost of the audit may be included in direct service contracts.

The organization receiving funds from the state shall be responsible for obtaining the required financial and compliance audits of the organization and any subcontractors, except for direct service subcontracts and other subcontracts exempt from State Department of Education review, as agreed to by the Departments of Finance and General Services. The audits shall be made by independent auditors in accordance with generally accepted auditing standards. The audit shall be completed by the 15th day of the fifth month following the end of the contractor's fiscal year. A copy of the required audit shall be filed with the State Department of Education upon its completion. In the event an audit is not filed, the State Department of Education shall notify the organization of the contract violation. The audit report filed shall be an integral part of the direct service contract file.

(h) (1) Nothing in this article limits the authority of the State Department of Education to make audits of direct service contracts. However, if independent audits arranged for by direct service contractors meet generally accepted auditing standards, the State Department of Education shall rely on those audits and any additional audit work shall build upon the work already done.

(2) Nothing in this article precludes the state from conducting, or contracting for the conduct of, contract performance audits which are not financial and compliance audits.

(3) Nothing in this article limits the state's responsibility or authority to enforce state law or regulations, procedures, or reporting requirements arising pursuant thereto.

(4) Nothing in this article limits the responsibility of the State Department of Education to provide an independent appeal procedure according to the provisions of the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2) of the Government Code.



SEC. 3. Section 22217 of the Education Code is amended to read:

22217. (a) The board shall employ a certified public accountant or public accountant, who is not in public employment, to audit the financial statements of the system. The costs of the audit shall be paid from the income of the retirement fund. The audit shall be made annually commencing with the fiscal year ending June 30, 1974. The board shall file a copy of the audit report with the Governor, the Secretary of the Senate, and the Chief Clerk of the Assembly.

(b) These audits shall not be duplicated by the Department of Finance or the State Auditor. The system shall be exempt from a pro rata general administrative charge for auditing.

SEC. 4. Section 22362 of the Education Code is amended to read:

22362. (a) Notwithstanding any other provision of law, the board shall give first priority to investing not less than 25 percent of all funds of the plan that become available in a fiscal year for new investments, in any of the following:

(1) Obligations secured by a lien or charge solely on residential realty, including rental housing, located in the state and on the security of which, commercial banks are permitted to make loans pursuant to Article 2 (commencing with Section 1220) of Chapter 10 of Division 1 of the Financial Code.

(2) Securities representing a beneficial interest in a pool of obligations secured by a lien or charge solely on residential realty located in the state.

(3) Certificates of deposit issued by savings and loan associations, if the savings and loan associations agree to make loans, or to fund tax-exempt notes or bonds issued by housing authorities, cities, or counties, on residential realty located in the state, including rental housing, in an amount equal to the amount of the deposit.

(b) Funds subject to investment pursuant to this section include all moneys received as employer and member contributions, investment income, and the proceeds from all net gains and losses from securities, reduced by the amount of benefit payments and withdrawals occurring during the fiscal year. In computing the amount of investment pursuant to this section, a dollar-for-dollar credit shall be given for residential realty investments described in



this section that are contractually agreed to be made by a financial institution from which the board, in consideration thereof, purchases other such investments. In computing the amount of investment pursuant to this section, the board may elect to include the dollar amount of commitments to purchase mortgages from public revenue bond programs in the year the commitment is given. However, that election may not exceed one-fifth of the total guideline amount.

(c) Nothing in this section shall be construed to require the acquisition of any instrument or security at less than the market rate.

(d) If the board determines during any fiscal year that compliance with this section will result in lower overall earnings for the retirement fund than obtainable from alternative investment opportunities that would provide equal or superior security, including guarantee of yield, the board may substitute those higher yielding investments, to the extent actually available for acquisition, for the investments otherwise specified by this section. Additionally, if, and to the extent that, adherence to the diversification guideline specified in this section would conflict with its fiduciary obligations in violation of Section 9 of Article I of the California Constitution or Section 10 of Article I of the United States Constitution, or would conflict with the standard for prudent investment of the fund as set forth in Section 17 of Article XVI of the California Constitution, the board may substitute alternative investments. In that case, the board shall estimate the amount of funds available in substitute alternative investments and the amount of funds invested pursuant to subdivision (a) and shall submit its resolution of findings and determinations, together with a description of the type, quantity, and yield of the investments substituted, to the Governor and to the Joint Legislative Audit Committee within 20 days following the conclusion of the fiscal year. Within 30 days thereafter, the Joint Legislative Audit Committee shall transmit the State Auditor's report to the Speaker of the Assembly and to the Senate Committee on Rules for transmittal to affected policy committees.

(e) The board, upon determining the final amount of funds available for investment in substitute alternative investments and the estimated amount of funds invested pursuant to subdivision (a), shall submit that information to the Governor and the Joint



Legislative Audit Committee. Thereafter, the Joint Legislative Audit Committee shall transmit the report of the State Auditor to the Speaker of the Assembly and the Senate Committee on Rules for transmittal to the affected policy committees.

SEC. 5. Section 41320 of the Education Code is amended to read:

41320. As a condition to any emergency apportionment to be made pursuant to Section 41310, the following requirements shall be met:

(a) The district requesting the apportionment shall submit to the county superintendent of schools having jurisdiction over the district a report issued by an independent auditor approved by the county superintendent of schools on the financial conditions and budgetary controls of the district, a written management review conducted by a qualified management consultant approved by the county superintendent of schools, and a fiscal plan adopted by the governing board to resolve the financial problems of the district.

(b) The county superintendent of schools shall review, and provide written comment on, the independent auditor's report, the management review, and the district plan. That written comment shall include the county superintendent's approval or disapproval of the district plan. In the event the county superintendent disapproves the plan, the governing board shall revise the district plan to respond to the concerns expressed by the county superintendent.

(c) Upon his or her approval of the district plan, the county superintendent of schools shall submit copies of the report, review, plan, and written comments specified in subdivision (b) to the Superintendent of Public Instruction, the Joint Legislative Audit Committee, the Joint Legislative Budget Committee, the Director of Finance, and the Controller.

(d) The Superintendent of Public Instruction shall review the reports and comments submitted to him or her by the county superintendent of schools and shall certify to the Director of Finance that the action taken to correct the financial problems of the district is realistic and will result in placing the district on a sound financial basis.

(e) The district shall develop a schedule to repay the emergency loan and submit it to the county superintendent of schools. The county superintendent of schools shall review and comment on the





repayment schedule and submit it to the Superintendent of Public Instruction for approval or disapproval. Upon the approval of the repayment schedule, and of the other reports, reviews, plans, and the appointment of the trustee required by this article, the Superintendent of Public Instruction shall request the Controller to disburse the proceeds of the emergency loan to the district.

(f) The district requesting the apportionment shall reimburse the county superintendent of schools for the costs incurred by the superintendent pursuant to this section.

SEC. 6. Section 62004 of the Education Code is amended to read:

62004. The State Auditor shall audit, on a sampling basis, school districts' use of the funds specified in Section 62002.

SEC. 7. Section 7604 of the Government Code is amended to read:

7604. In the event of a loss in the reacquisition of loaned securities, the responsible state agency shall make a written report of the loss to the Legislature and the State Auditor as soon as possible, but not later than 30 days after the incurrence of that loss.

SEC. 8. Section 8543.1 of the Government Code is amended to read:

8543.1. The duties of the Bureau of State Audits are to examine and report annually upon the financial statements prepared by the executive branch of the state and to perform other related assignments, including performance audits, that are mandated by statute. For the purposes of this chapter "bureau" means the "Bureau of State Audits," unless the context clearly requires otherwise.

SEC. 9. Section 8544.2 of the Government Code is amended to read:

8544.2. Persons employed by the bureau pursuant to Section 8544.1 shall be allowed to enroll in the Public Employees' Medical and Hospital Care Act contained in Part 5 (commencing with Section 22751) of Division 5 of Title 2.

SEC. 9.5. Section 8544.2 of the Government Code is amended to read:

8544.2. Persons employed by the bureau pursuant to Section 8544.1 shall be allowed to enroll in the Public Employees' Medical and Hospital Care Act contained in Part 5 (commencing with Section 22750) of Division 5 of Title 2.



SEC. 10. Section 8544.3 of the Government Code is amended to read:

8544.3. All persons employed by the bureau pursuant to Section 8544.1 who were members of the Public Employees' Retirement System as of November 3, 1992, shall retain their existing classification within the system and shall be considered state miscellaneous members as defined in Section 20014.

SEC. 11. Section 8544.5 of the Government Code is amended to read:

8544.5. (a) There is hereby established in the State Treasury the State Audit Fund. Notwithstanding Section 13340, the State Audit Fund is continuously appropriated for the expenses of the State Auditor. There shall be appropriated annually in the Budget Act to the State Audit Fund, from the General Fund, the amount necessary to reimburse the State Audit Fund for the cost of audits to be performed that are not directly reimbursed under subdivision (c). "Cost of audits" means all direct and indirect costs of conducting the audits and any other related expenses incurred by the State Auditor in fulfilling his or her statutory responsibilities.

(b) Upon certification by the State Auditor of estimated costs on a monthly basis, the Controller shall transfer the amount thus certified from the General Fund to the State Audit Fund. The Controller shall thereafter issue warrants drawn against the State Audit Fund upon receipt of claims certified by the State Auditor.

(c) To ensure appropriate reimbursement from federal and special funds for the costs of the duties performed pursuant to Section 8546.3, the State Auditor may directly bill state agencies for the costs incurred, subject to the approval of the Director of Finance.

(d) To ensure adequate oversight of the operations of the bureau, the Milton Marks "Little Hoover" Commission on California State Government Organization and Economy shall annually obtain the services of an independent public accountant to audit the State Audit Fund and the operation of the bureau to assure compliance with state law, including Section 8546. The results of this audit shall be submitted to the commission and shall be a public record.

(e) To ensure that audits of the Milton Marks "Little Hoover" Commission on California State Government Organization and Economy are conducted in conformity with government auditing



standards, any audit of the commission that is required or permitted by law shall be conducted by the independent public accountant selected pursuant to subdivision (d).

SEC. 12. Section 8544.6 of the Government Code is amended to read:

8544.6. All unreimbursed expenditures of the bureau are defined as “administrative costs” defined in Section 11270.

SEC. 13. Section 8545 of the Government Code is amended to read:

8545. The State Auditor shall not destroy any papers or memoranda used to support a completed audit sooner than three years after the audit report is released to the public. All books, papers, records, and correspondence of the bureau pertaining to its work are public records subject to Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 and shall be filed at any of the regularly maintained offices of the State Auditor, except that none of the following items or papers of which these items are a part shall be released to the public by the State Auditor, his or her employees, or members of the commission:

(a) Personal papers and correspondence of any person providing assistance to the State Auditor when that person has requested in writing that his or her papers and correspondence be kept private and confidential. Those papers and correspondence shall become public records if the written request is withdrawn or upon the order of the State Auditor.

(b) Papers, correspondence, memoranda, or any substantive information pertaining to any audit not completed.

(c) Papers, correspondence, or memoranda pertaining to any audit that has been completed, which papers, correspondence, or memoranda are not used in support of any report resulting from the audit.

SEC. 14. Section 8545.1 of the Government Code is amended to read:

8545.1. (a) The State Auditor, and any employee or former employee of the bureau, may not divulge or make known to any person not employed by the bureau in any manner not expressly permitted by law any particulars of any record, document, or information the disclosure of which is restricted by law from release to the public. This prohibition includes, but is not limited



to, the restrictions on the release of records, documents, or information set forth in Section 8545.

(b) Subdivision (a) also applies to:

(1) Any person or business entity that is contracting with or has contracted with the bureau and to the employees and former employees of that person or business entity.

(2) The officers and employees of and any person or business entity that is contracting with or has contracted with any state or local governmental agency or publicly created entity that has assisted the bureau in the course of any audit or investigative audit or that has received a draft copy of any report or other draft document from the bureau for comment or review.

(c) Any officer, employee, or person who discloses the particulars of any record, document, or other information in violation of this section is guilty of a misdemeanor.

SEC. 15. Section 8545.2 of the Government Code is amended to read:

8545.2. (a) Notwithstanding any other provision of law, the State Auditor during regular business hours shall have access to and authority to examine and reproduce, any and all books, accounts, reports, vouchers, correspondence files, and other records, bank accounts, and money or other property, of any agency of the state, whether created by the California Constitution or otherwise, any local governmental entity, including any city, county, and school or special district, and any publicly created entity, for any audit or investigative audit. Any officer or employee of any agency or entity having these records or property in his or her possession, under his or her control, or otherwise having access to them, shall permit access to, and examination and reproduction thereof, upon the request of the State Auditor or his or her authorized representative.

(b) For the purposes of access to and examination and reproduction of the records and property described in subdivision (a), an authorized representative of the State Auditor is an employee or officer of the state or local governmental agency or publicly created entity involved and is subject to any limitations on release of the information as may apply to an employee or officer of the state or local governmental agency or publicly created entity. For the purpose of conducting any audit or investigation, the State Auditor or his or her authorized



representative shall have access to the records and property of any public or private entity or person subject to review or regulation by the public agency or public entity being audited or investigated to the same extent that employees or officers of that agency or public entity have access. No provision of law providing for the confidentiality of any records or property shall prevent disclosure pursuant to subdivision (a), unless the provision specifically refers to and precludes access and examination and reproduction pursuant to subdivision (a). This subdivision does not apply to records compiled pursuant to Part 1 (commencing with Section 8900) or Part 2 (commencing with Section 10200) of Division 2.

(c) Any officer or person who fails or refuses to permit access and examination and reproduction, as required by this section, is guilty of a misdemeanor.

SEC. 16. Section 8545.4 of the Government Code is amended to read:

8545.4. (a) In connection with any audit or investigative audit conducted by the State Auditor, the State Auditor or his or her designee, may do any of the following:

- (1) Administer oaths.
- (2) Certify to all official acts.

(3) Issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, or documents, or for the making of oral or written sworn statements, in any interview conducted as part of an audit or investigative audit.

(b) Any subpoena issued under this section extends as process to all parts of the state and may be served by any person authorized to serve process of courts of record or by any person designated for that purpose by the State Auditor or his or her designee. The person serving this process may receive compensation as allowed by the State Auditor or his or her designee, not to exceed the fees prescribed by law for similar service.

(c) Notwithstanding Section 7470, 7474, or 7491, subpoenas issued under this section for financial records of financial institutions concerning customers of financial institutions or for information contained in those records shall not be subject to the requirement or conditions of Section 7474.

SEC. 17. Section 8545.5 of the Government Code is amended to read:

8545.5. (a) The superior court in the county in which any interview is held under the direction of the State Auditor or his or her designee has jurisdiction to compel the attendance of witnesses, the making of oral or written sworn statements, and the production of papers, books, accounts, and documents, as required by any subpoena issued by the State Auditor or his or her designee.

(b) If any witness refuses to attend or testify or produce any papers required by the subpoena, the State Auditor or his or her designee may petition the superior court in the county in which the hearing is pending for an order compelling the person to attend and answer questions under penalty of perjury or produce the papers required by the subpoena before the person named in the subpoena. The petition shall set forth all of the following:

(1) That due notice of the time and place of attendance of the person or the production of the papers has been given.

(2) That the person has been subpoenaed in the manner prescribed in Section 8545.4.

(3) That the person has failed and refused to attend or produce the papers required by subpoena before the State Auditor or his or her designee as named in the subpoena, or has refused to answer questions propounded to him or her in the course of the interview under penalty of perjury.

(c) Upon the filing of the petition, the court shall enter an order directing the person to appear before the court at a specified time and place and then and there show cause why he or she has not attended, answered questions under penalty of perjury, or produced the papers as required. A copy of the order shall be served upon him or her. If it appears to the court that the subpoena was regularly issued by the State Auditor or his or her designee, the court shall enter an order that the person appear before the person named in the subpoena at the time and place fixed in the order and answer questions under penalty of perjury or produce the required papers. Upon failure to obey the order, the person shall be dealt with as for contempt of court.

SEC. 18. Section 8546.1 of the Government Code is amended to read:

8546.1. (a) The State Auditor shall conduct financial and performance audits as directed by statute. The State Auditor may conduct these audits of any state agency as defined by Section 11000, whether created by the California Constitution or



otherwise, any local governmental agency, including any city, county, and school or special district, or any publicly created entity. However, the State Auditor shall not audit the activities of the Milton Marks Commission on California State Government Organization and Economy or the Legislature to assure compliance with government auditing standards.

(b) The State Auditor shall conduct any audit of a state or local governmental agency or any other publicly created entity that is requested by the Joint Legislative Audit Committee to the extent that funding is available and in accordance with the priority established by the committee with respect to other audits requested by the committee. Members of the Legislature may submit requests for audits to the committee for its consideration and approval. Any audit request approved by the committee shall be forwarded to the State Auditor as a committee request.

(c) The State Auditor shall complete any audit in a timely manner and in accordance with the “Government Auditing Standards” published by the Comptroller General of the United States.

(d) Immediately upon completion of the audit, the State Auditor shall transmit a copy of the audit report to the commission. Not later than 24 hours after delivery to the commission, the commission shall deliver the report to the Legislature, appropriate committees or subcommittees of the Legislature, and the Governor. Once transmitted to these parties, the report shall be made available to the public.

SEC. 19. Section 8546.3 of the Government Code is amended to read:

8546.3. The State Auditor shall examine and report annually upon the financial statements otherwise prepared by the executive branch of the state so that the Legislature and the public will be informed of the adequacy of those financial statements in compliance with generally accepted accounting principles. In making that examination, the State Auditor may make the audit examination of accounts and records, accounting procedures, and internal auditing performance that he or she determines to be necessary to disclose all material facts necessary to proper reporting in accordance with the federal Single Audit Act of 1984 (31 U.S.C. Section 7501 and following) and the purposes set forth in Section 8521.5.





SEC. 20. Section 8546.4 of the Government Code is amended to read:

8546.4. (a) The State Auditor shall annually issue an auditor's report based upon the general purpose financial statements included in the Controller's annual report that is submitted to the Governor pursuant to Section 12460. The report shall be in accordance with the "Government Auditing Standards" published by the Comptroller General of the United States and the standards published by the American Institute of Certified Public Accountants.

(b) The State Auditor, in the performance of this annual audit, may examine all the financial records, accounts, and documents of any state agency as defined by Section 11000.

(c) The State Auditor shall rely, to the maximum extent possible, upon the audits performed by the Controller, the Department of Finance, internal auditors of state agencies, and independent contractors. The Director of Finance shall be responsible for coordinating and providing technical assistance to the internal auditors of state agencies. Nothing in this article is intended to reduce or restrict the operations of internal auditors whose review of internal financial and administrative controls of state agencies is essential for coordinated audits.

(d) State agencies receiving federal funds shall be primarily responsible for arranging for federally required financial and compliance audits. State agencies shall immediately notify the Director of Finance, the State Auditor, and the Controller when they are required to obtain federally required financial and compliance audits. The Director of Finance, the State Auditor, and the Controller shall coordinate the procurement by state agencies, including any negotiations with cognizant federal agencies, of federally required financial and compliance audits.

(e) To prevent duplication of the annual audit conducted by the State Auditor pursuant to subdivision (a), except for those state agencies that are required by state law to obtain an annual audit, no state agency shall enter into a contract for a financial or compliance audit without prior written approval of the Controller and the Director of Finance, which approval shall state the reason for the contract and shall be filed with the State Auditor at least 30 days prior to the award of the contract. No funds appropriated by the Legislature shall be encumbered for the purpose of funding any





contract for an audit that duplicates the annual financial audit conducted by the State Auditor.

(f) Notwithstanding any other provision of this article, nothing in this section shall be construed to limit, restrict, or otherwise infringe upon the constitutional or statutory authority of the Controller to superintend the fiscal concerns of the state.

(g) Notwithstanding any other provision of this article, nothing in this section shall be construed to limit, restrict, or otherwise infringe upon the statutory authority of the Director of Finance to supervise the financial and business policies of the state.

SEC. 21. Section 8546.5 of the Government Code is amended and renumbered to read:

13071. The Director of Finance, in coordinating the internal auditors of state agencies, shall ensure that these auditors utilize the “Standards for the Professional Practices of Internal Auditing.”

SEC. 22. Section 8546.8 of the Government Code is amended to read:

8546.8. Unless the contrary is stated or clearly appears from the context, any reference to the Auditor General or the Office of the Auditor General in any statute or contract in effect on the effective date of this chapter, other than Chapter 4 (commencing with Section 10500), with respect to the performance of audits, shall be construed to refer to the State Auditor and the Bureau of State Audits, respectively.

SEC. 23. The heading of Article 3 (commencing with Section 8547) of Chapter 6.5 of Division 1 of Title 2 of the Government Code is amended to read:

### Article 3. California Whistleblower Protection Act

SEC. 24. Section 12430 of the Government Code is amended to read:

12430. Annually, the Controller, the State Auditor, and the Director of the Department of Finance shall each prepare a plan to meet their audit responsibilities. With respect to audits to fulfill the requirements necessary for the receipt of federal funds, the State Auditor shall be primarily responsible for financial audits, and the Director of Finance or the Controller shall be primarily responsible for compliance audits, and the Director of Finance



shall be primarily responsible for coordinating state agency internal audits and determining when agencies are required to obtain federally mandated audits. Upon completion of these audit plans, the Controller, State Auditor, and Director of Finance shall meet to review and discuss the plans with the purpose of coordinating their audit efforts to avoid unnecessary duplication and negotiation with federal agencies regarding federally mandated audits.

Subsequent to their review of the audit plans and negotiations with federal agencies if the Controller, the Director of Finance, or the State Auditor determines that the proposed audit plan of the other does not fulfill all audit requirements necessary for the receipt of federal funds, they may expand the scope of their audit of state agencies to meet the additional federal audit requirements. The financial audit report issued by the State Auditor and the compliance audit report issued by the Controller or the Director of Finance or both are intended to fulfill federally mandated audit requirements. These audit reports shall be performed in accordance with the “Standards for Audits of Governmental Organizations, Programs, Activities and Functions,” published by the Comptroller General of the United States, and the standards published by the American Institute of Certified Public Accountants.

Nothing in this section shall be construed to limit, restrict, or otherwise infringe upon the duty of the State Auditor to conduct annual financial audits pursuant to Section 10534 or to limit, restrict, or otherwise infringe upon the authority of the Joint Legislative Audit Committee to direct the State Auditor to conduct any audit of state government pursuant to Chapter 6.5 (commencing with Section 8540) of Division 1 of Title 2.

SEC. 25. Section 13297 of the Government Code is amended to read:

13297. The money in the Treasury shall be counted by the State Auditor at least twice each year, without giving the Treasurer any previous notice of the day or hour of counting.

At any counting the State Auditor may place any sum in bags or boxes and mark and seal them with a seal adopted and kept by him or her. At any subsequent counting he or she may count each sealed bag or box separately and credit at the value stamped



thereon the contents of the bags or boxes as part of the money counted without making a detailed count of the contents.

SEC. 26. Section 13298 of the Government Code is amended to read:

13298. The State Auditor shall count as cash all evidence of money belonging to the state upon deposit outside the treasury that may be held by the Treasurer in accordance with law and shall determine for himself or herself whether that evidence is sufficient according to law.

SEC. 27. Section 13299 of the Government Code is amended to read:

13299. After each count of money the State Auditor shall make and file with the Secretary of State and cause to be published in some newspaper in the City of Sacramento, an affidavit showing:

(a) The amount of money or credit that should be in the treasury.

(b) The amount and kind of money or credit actually in the treasury.

SEC. 28. Section 13299.1 of the Government Code is amended to read:

13299.1. Securities held in the treasury or other depositories for safekeeping purposes shall be counted or confirmed, at least annually, by the State Auditor. After each count or confirmation of securities, the State Auditor shall issue his or her report on the accountability of securities.

SEC. 29. Section 13405 of the Government Code is amended to read:

13405. (a) To ensure that the requirements of this section are fully complied with, the head of each agency which the director determines is covered by this section shall prepare and submit a report on the adequacy of the agency's systems of internal accounting and administrative control by December 31, 1983, and by December 31 following the end of each odd-numbered fiscal year thereafter.

(b) The report, including the state agency's response to report recommendations, shall be signed by the head of the agency and addressed to the agency secretary or the director of finance for agencies without an agency secretary. Copies of the reports shall be forwarded to the Legislature, the State Auditor, the Governor,



and the Director of Finance. Copies of these reports shall also be forwarded to the State Library where they shall be available for public inspection.

(c) By January 1, 1983, the director, in consultation with the State Auditor and the Controller, shall establish a system of reporting and a general framework to guide the agencies in performing evaluations on their systems of internal accounting and administrative control. The director, in consultation with the State Auditor and the Controller, may modify the format for the report or the framework for conducting the evaluations from time to time as deemed necessary.

(d) Any material inadequacy or material weakness in an agency's systems of internal accounting and administrative control which prevents the head of the agency from stating that the agency's systems of internal accounting and administrative control provided reasonable assurances that each of the objectives specified above was achieved, shall be identified and the plans and schedule for correcting any such inadequacy described in detail.

SEC. 29.5. Section 13405 of the Government Code is amended to read:

13405. (a) To ensure that the requirements of this chapter are fully complied with, the head of each agency that the director determines is covered by this chapter shall prepare and submit a report on the adequacy of the agency's systems of internal accounting controls and administrative controls by January 31, 2004, and by December 31 of every odd-numbered calendar year thereafter.

(b) The report, including the state agency's response to report recommendations, shall be signed by the head of the agency and addressed to the agency secretary or the director of finance for agencies without an agency secretary. Copies of the reports shall be forwarded to the Chair of the Joint Legislative Audit Committee, the State Auditor, the Governor, and the director. Copies of these reports shall also be forwarded to the State Library where they shall be available for public inspection.

(c) Any material inadequacy or material weakness in an agency's systems of internal accounting controls and administrative controls that prevents the head of the agency from stating that the agency's systems of internal accounting controls and administrative controls provided reasonable assurances that



each of the objectives specified above was achieved, shall be identified and the plans and schedule for correcting any inadequacy described in detail.

(d) To ensure that the requirements of this chapter are fully complied with, the head of each agency that the director determines is covered by this chapter shall prepare and submit a report to the director on the adequacy of the agency's system of information security controls by January 31, 2004, and by December 31 of every odd-numbered calendar year thereafter. Any material inadequacy or material weakness in an agency's system of information security controls that prevents the head of the agency from stating that the agency's system of information security controls provided reasonable assurances that each of the objectives specified above was achieved shall be identified and the plans and schedule for correcting any inadequacy described in detail. The confidentiality of the information submitted to the director pursuant to this subdivision shall be maintained and the information may not be disclosed to the public.

SEC. 30. Section 16366.7 of the Government Code is amended to read:

16366.7. Since federal block grant funds were reduced by an average of 26 percent during the 1981–82 fiscal year and are proposed for further reductions during the 1982–83 fiscal year, the Legislature declares that the state's administrative costs and processes must be reduced in order to ensure that maximum funds are available to continue essential direct human services.

Therefore, notwithstanding any other provision of law, all of the following state procedures shall be implemented within 60 days after the effective date of this section:

(a) All state agencies, offices, or departments administering federal block grant funds shall have the authority, subject to the approval of the Department of Finance, to grant advance payments of federal funds to contractors or local governmental agencies in any amounts as the administering state department deems necessary for startup or continued provision of services or program operation.

(b) Departmental service contracts utilizing federal block grant funds shall be exempt from approval by the Department of Finance and the State Department of General Services prior to their execution. Instead, the proper state fiscal controls over federal



block grant funds shall be insured by all of the following provisions:

(1) State departments that award block grant funds to local agencies shall permit, as appropriate, to the extent that federal funds are available for this purpose, local agencies to provide for federally mandated financial and compliance audits of block grant awards in accordance with the federal audit provisions and standards promulgated by the Comptroller General of the United States, and consistent with the department's approved audit plan.

(2) The Department of Finance, in consultation with the Controller, shall establish fiscal reporting requirements for the departments to use on a quarterly basis with all providers.

(3) In the event a contractor has not engaged in a contract for these program purposes before with the state, state administering departments shall have the authority to conduct a preaudit or fund a preaudit by the Controller in order to certify the ability of the contractor to administer the funds.

(4) The State Auditor shall provide audit findings regarding each block grant to the Legislature no later than May 1 of each year.

(c) Each administering state department shall develop standard definitions for units of service, costs per unit of service, citizen participation processes, and due process notification for clients in relation to diminishing federal funds within 60 days after the effective date of this section and shall incorporate all of these elements into each agreement or contract.

(d) To the extent possible, compliance with this section shall be consistent with federal policies and procedures. Reports required under this section shall be combined, where practical, with any other similar reports required by the Legislature and by the federal government.

SEC. 31. Section 53134 of the Government Code is amended to read:

53134. (a) Local agencies shall have the option, pursuant to the provisions of Section 53135, to provide for federally mandated financial and compliance audits of block grant funds received from state departments. If, however, a local agency does not elect to, or fails to provide for, federally mandated financial and compliance audits, or if it is determined by the administering state department that a local agency warrants assistance in this function, the state department shall notify the Controller, and the Controller



shall identify appropriate methods for accomplishing federally required audits.

The decision of the Controller shall be based upon use of any existing state audit relationship, whenever appropriate in view of federal requirements, so as to avoid duplication and excess costs.

(b) The state shall rely on the audit arranged by the local agency if the audit is conducted in accordance with the standards promulgated by the state consistent with federal policy. Additional work shall not duplicate these audits and shall be conducted only upon approval of the Controller in consultation with the Department of Finance.

(c) Audits performed pursuant to this article shall be conducted not less frequently than every two years, or as specified by federal law, by qualified state or local government auditors or independent public accountants in accordance with the financial and compliance requirements of federal Standards for Audit of Governmental Organizations, Programs, Activities and Functions. These audits shall be completed no later than six months after the close of the audit period. If the provisions of this subdivision have not been met, the Controller shall immediately notify the Governor and the Legislature as to what corrective actions it intends to take.

SEC. 32. Section 53138 of the Government Code is amended to read:

53138. The Controller, the Department of Finance, the State Auditor's office, or other state department auditors may perform audit activities pursuant to this article insofar as the standards of independence contained in the "Government Auditing Standards" published by the Comptroller General of the United States are met.

SEC. 33. Section 18502.5 of the Health and Safety Code is amended to read:

18502.5. (a) There is hereby established in the State Treasury the Mobilehome Parks Revolving Fund into which funds collected by the department pursuant to this part shall be deposited. Notwithstanding Section 13340 of the Government Code, money deposited in the fund is continuously appropriated to the department for expenditure in carrying out the provisions of this part.





(b) Notwithstanding any maximum fees set by this part, the department may, by regulation, set fees charged by the department for all permits and for the department's activities mandated by this part. The fees shall be set with the primary objective that the aggregate revenue deposited in the Mobilehome Parks Revolving Fund shall not, on an annual basis, exceed the costs of the department's activities mandated by this part.

(c) No proposed increase in fees may be effective any sooner than 45 days after written notification thereof is provided to the Chairman of the Joint Legislative Audit Committee and the State Auditor. Upon receipt of the notification, the State Auditor may prepare, a report to the Legislature which indicates whether the proposed increase is appropriate and consistent with the provisions of this part.

(d) The total money contained in the Mobilehome Parks Revolving Fund on June 30 of each fiscal year shall not exceed the amount of money needed for the department's operating expenses for one year for the enforcement of this part. If the total money contained in the fund exceeds this amount, the department shall make appropriate reductions in the schedule of fees authorized by this section.

SEC. 34. Section 10359 of the Public Contract Code is amended to read:

10359. (a) Each state agency shall annually prepare a report pursuant to this section that includes a list of the consulting services contracts that it has entered into during the previous fiscal year. The listing shall include the following information:

- (1) The name and identification of each contractor.
- (2) The type of bidding entered into, the number of bidders, whether the low bidder was accepted, and if the low bidder was not accepted, an explanation of why another contractor was selected.
- (3) The amount of the contract price.
- (4) Whether the contract was a sole-source contract, and why the contract was a sole-source contract.
- (5) Justification for entering into each consulting services contract.
- (6) The purpose of the contract and the potential beneficiaries.
- (7) The date when the initial contract was signed, and the date when the work began and was completed.





The report shall also include a separate listing of consultant contracts completed during that fiscal year, with the same information as above.

(b) The report this section requires shall also include a list of any contracts underway during that fiscal year on which any change was made regarding the following:

(1) The completion date of the contract.

(2) The amount of money to be received by the contractor, if it exceeds 3 percent of the original contract price.

(3) The purpose of the contract or duties of the contractor. A brief explanation shall be given if the change in purpose is significant.

(c) Copies of the annual report shall be sent within 60 working days after the end of the previous fiscal year to the Legislative Analyst, the Department of Finance, the Department of General Services, the State Auditor, the Joint Legislative Budget Committee, the Joint Legislative Audit Committee, the Senate Appropriations Committee, and the Assembly Appropriations Committee.

(d) State agencies may not use the temporary budget allocation process as a means of circumventing the requirements of this section.

(e) Within 120 working days after the close of the fiscal year, the department shall furnish to the officials and committees listed in subdivision (c), a list of the departments and agencies that have not submitted the required report specified in this section.

(f) The department shall annually submit to the Legislature, the Legislative Analyst, the Department of Finance, and the Auditor General, a report describing the information furnished to the department pursuant to this section.

SEC. 35. Section 2154 of the Streets and Highways Code is amended to read:

2154. The Controller shall annually tabulate and compile all such reports received by him or her and shall distribute copies of that tabulation and compilation to the Governor, the Lieutenant Governor, the Members of the Legislature, the department, the State Auditor, the Joint Legislative Audit Committee, the cities, and the counties and to any legislative committee charged with the investigation of streets, roads, highways, or bridges in this state.



SEC. 36. Section 14100.2 of the Welfare and Institutions Code is amended to read:

14100.2. (a) All types of information, whether written or oral, concerning a person, made or kept by any public officer or agency in connection with the administration of any provision of this chapter, Chapter 8 (commencing with Section 14200), or Chapter 8.7 (commencing with Section 14520) and for which a grant-in-aid is received by this state from the United States government pursuant to Title XIX of the Social Security Act shall be confidential, and shall not be open to examination other than for purposes directly connected with the administration of the Medi-Cal program. However, in the context of a petition for the appointment of a conservator for a person with respect to whom this information is made or kept, and in the context of a criminal prosecution for a violation of Section 368 of Penal Code with respect to such a person, all of the following shall apply:

A public officer or employee of any such agency may answer truthfully, at any proceeding related to the petition or prosecution, when asked if he or she is aware of information that he or she believes is related to the legal mental capacity of that aid recipient or the need for a conservatorship for that aid recipient. If the officer or employee states that he or she is aware of this information, the court may order the officer or employee to testify about his or her observations and to disclose any relevant agency records if the court has an other independent reason to believe that the officer or employee has information that would facilitate the resolution of the matter.

(b) Except as provided in this section and to the extent permitted by federal law or regulation all information about applicants and recipients as provided for in subdivision (a) to be safeguarded includes, but is not limited to, names and addresses, medical services provided, social and economic conditions or circumstances, agency evaluation of personal information, and medical data, including diagnosis and past history of disease or disability.

(c) Purposes directly connected with the administration of the Medi-Cal program, Chapter 8 (commencing with Section 14200), or Chapter 8.7 (commencing with Section 14520) encompass those administrative activities and responsibilities in which the State Department of Health Services and its agents are required to



engage to insure effective program operations. These activities include, but are not limited to: establishing eligibility and methods of reimbursement; determining the amount of medical assistance; providing services for recipients; conducting or assisting an investigation, prosecution, or civil or criminal proceeding related to the administration of the Medi-Cal program; and conducting or assisting a legislative investigation or audit related to the administration of the Medi-Cal program.

(d) Any officer, agent, or employee of the State Department of Health Services or of any public agency shall provide the Joint Legislative Audit Committee and the State Auditor with any and all the information described in subdivision (b) within a reasonable period of time as determined by the committee in consultation with the State Department of Health Services, after receipt of a request from the committee approved by a majority of the members of the committee. The Joint Legislative Audit Committee and the State Auditor may use that information only for the purpose of investigating or auditing the administration of the Medi-Cal program, Chapter 8 (commencing with Section 14200), or Chapter 8.7 (commencing with Section 14520), and shall not use that information for commercial or political purposes. In any case where disclosure of information is authorized by this section, the Joint Legislative Audit Committee or the State Auditor shall not disclose the identity of any applicant or recipient, except in the case of a criminal or civil proceeding conducted in connection with the administration of the Medi-Cal program.

(e) The access to information provided in subdivision (d) shall be permitted only to the extent and under the conditions provided by federal law and regulations governing the release of such information.

(f) The State Department of Health Services may make rules and regulations governing the custody, use and preservation of all records, papers, files, and communications pertaining to the administration of the laws relating to the Medi-Cal program, Chapter 8 (commencing with Section 14200), or Chapter 8.7 (commencing with Section 14520). The rules and regulations shall be binding on all departments, officials, and employees of the state, or of any political subdivision of the state and may provide for giving information to or exchanging information with agencies, public or political subdivisions of the state, and may



provide for giving information to or exchanging information with agencies, public or private, which are engaged in planning, providing or securing such services for or in behalf of recipients or applicants; and for making case records available for research purposes, provided, that that research will not result in the disclosure of the identity of applicants for or recipients of those services.

(g) Upon request, the department shall release to the negotiator established pursuant to Article 2.6 (commencing with Section 14081) all computer tapes and any modifications thereto, including paid claims, connected with the administration of the Medi-Cal program which are in the possession or under the control of the department, including tapes prepared prior to the effective date of this section.

To ensure compliance with federal law and regulations, the department shall make the minimum necessary modifications to its computer tapes prior to releasing the tapes to the negotiator in order to assure the confidentiality of the identity of all applicants for, or recipients of, those services. The department shall not make any modifications to paid claims tapes that affect information regarding beneficiaries' aid categories or counties of origin.

(h) Any person who knowingly releases or possesses confidential information concerning persons who have applied for or who have been granted any form of Medi-Cal benefits or benefits under Chapter 8 (commencing with Section 14200) or Chapter 8.7 (commencing with Section 14520) for which state or federal funds are made available in violation of this section is guilty of a misdemeanor.

SEC. 37. Section 9.5 of this bill incorporates amendments to Section 8544.2 of the Government Code proposed by both this bill and SB 626. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2004, (2) each bill amends Section 8544.2 of the Government Code, and (3) this bill is enacted after SB 626, in which case Section 9 of this bill shall not become operative.

SEC. 38. Section 29.5 of this bill incorporates amendments to Section 13405 of the Government Code proposed by both this bill and SB 403. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2004, (2) each bill amends Section 13405 of the Government Code, and (3)



this bill is enacted after SB 403, in which case Section 29 of this bill shall not become operative.



Approved \_\_\_\_\_, 2003

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*Governor*

